

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION**

SENSORY PATH INC.

PLAINTIFF

VS.

**CIVIL ACTION NO.: 3:19CV219-GHD-RP
LEAD CASE**

FIT AND FUN PLAYSCAPES LLC, et al.

DEFENDANTS

CONSOLIDATED WITH

FIT AND FUN PLAYSCAPES LLC, et al.

PLAINTIFFS

VS.

CIVIL ACTION NO.:3:22CV32-MPM-RP

SENSORY PATH INC.

DEFENDANT

ORDER GRANTING MOTION TO CONSOLIDATE

The parties jointly move pursuant to Rule 42(a), *Federal Rules of Civil Procedure*, and Rule 42.1, *Uniform Local Rules of the District Courts*, for an Order consolidating these actions for trial and all pretrial purposes. Both cases involve the same set of factual circumstances. Civil Action Number 3:19cv219-GHD-RP was filed in this court on September 26, 2019. Civil Action Number 3:22cv32-MPM-RP was transferred to this court from the United States District Court for the Southern District of New York on February 12, 2022. Both cases arise out of the same operative facts and claims relating to the work or product sold by each party and their competing rights.

Rule 42(a) of the *Federal Rules of Civil Procedure* which provides that “actions before the court [which] involve a common question of law or fact . . . may [be] consolidate[d].” FED. R. CIV. P. 42(a). Here, common questions of law and fact exist in both actions because both cases arise out of the same facts. While it is true that each party has alleged separate claims against the other, the underlying facts and witnesses necessary to the litigation, including expert

witnesses, are common to all parties. Because the legal issues and factual issues in each case will overlap substantially, consolidation will largely eliminate duplication of discovery, research, and pretrial motions. Additionally, the potential for inconsistent verdicts from two juries and the need for judicial efficiency weighs in favor of consolidation.

It is **ORDERED**

That civil action number 3:19cv219-GHD-RP, entitled *Sensory Path, Inc. v. Fit and Fun Playscapes LLC and Pamela A. Gunther*, is hereby consolidated with civil action number 3:22cv32-MPM-RP, entitled *Fit and Fun Playscapes LLC v. Sensory Path Inc., Holly S. Clay, and Madison Barker.*, with No. 3:19cv-219-GHD-RP serving as the lead case and the style to read as above captioned.

Counsel are directed to indicate in the caption of all documents filed with court both the lead case number and consolidated case number. The word "CONSOLIDATED" must appear directly under the lead case number before the first consolidated case number. Counsel for all parties are directed to docket and file all documents in the lead case unless directed otherwise. Documents may be filed in all cases so long as counsel places the words "FILED IN ALL CASES" in the caption under the last case number and electronically files the document in each and every case which the document is to be filed or appropriately spreads the filing according to the court's electronic case management and filing system. Counsel are responsible for accurately and correctly following these requirements in all filings via the court's electronic case management system.

This, the 22nd day of February, 2022.

/s/ Roy Percy
UNITED STATES MAGISTRATE JUDGE